

Supreme Court, U. S.
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IN THE
Supreme Court of the United States
OCTOBER TERM, 1976

No. 76-749

PFIZER INC., AMERICAN CYANAMID COMPANY, BRISTOL-MYERS COMPANY,
SQUIBB CORPORATION, OLIN CORPORATION and THE UPJOHN COMPANY,
Petitioners,
—against—

THE GOVERNMENT OF INDIA, THE IMPERIAL GOVERNMENT OF IRAN and
THE REPUBLIC OF THE PHILIPPINES,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE EIGHTH CIRCUIT

**PETITIONERS' OBJECTION TO MOTION OF THE FEDERAL
REPUBLIC OF GERMANY TO FILE A BRIEF AS AMICUS CURIAE**

JULIAN O. VON KALINOWSKI
515 South Flower Street
Los Angeles, California 90071

JOE A. WALTERS
3800 IDS Tower
Minneapolis, Minnesota 55402

JOHN H. MORRISON
200 East Randolph Drive
Chicago, Illinois 60601
*Attorneys for Petitioner
Pfizer Inc.*

MERRELL E. CLARK, JR.
40 Wall Street
New York, New York 10005
*Attorney for Petitioner
Bristol-Myers Company*

ROBERTS B. OWEN
888 Sixteenth Street, N. W.
Washington, D.C. 20006
*Attorney for Petitioner
The Upjohn Company*

SAMUEL W. MURPHY, JR.
KENNETH N. HART
WILLIAM J. T. BROWN
30 Rockefeller Plaza
New York, New York 10020

PETER DORSEY
2400 First National Bank Building
Minneapolis, Minnesota 55402
*Attorneys for Petitioner
American Cyanamid Company*

ALLEN F. MAULSBY
One Chase Manhattan Plaza
New York, New York 10005
*Attorney for Petitioners
Squibb Corporation and
Olin Corporation*

GORDON G. BUSDICKER
1300 Northwestern Bank Building
Minneapolis, Minnesota 55402
*Attorney for Petitioners
Bristol-Myers Company,
The Upjohn Company,
Squibb Corporation and
Olin Corporation*

August 12, 1977

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Petitioners withheld their consent to the filing of a brief by the Federal Republic of Germany as *amicus curiae* because there was no reason to believe that the parties before the Court, which include India, Iran and the Philippines, would fail to make an adequate presentation of the single question of law raised in these cases. See Supreme Court Rule 42(3). A review of the Federal Republic's motion and the brief annexed thereto confirms that the Federal Republic offers no substantial or relevant arguments that have not been presented by the parties.

The Federal Republic asserts as the basis for its motion that it "occupies a position unique and apart from that of the parties before the court." See Motion of the Federal Republic of Germany For Leave to File Brief as *Amicus Curiae* at iii. If that should be so, then Germany has nothing to add here.

The argument is made that Germany "will remain within the Clayton Act definition of 'person' (15 U.S.C. § 12) irrespective of the disposition of the question now before the

Court as to whether 'person' in Section 4 includes foreign nations generally." *Id.* at ii. This is said to be because, even if Congress did not intend to confer the cause of action for treble damages upon foreign governments, German law allegedly deems the German government a "corporation." See Brief of the Federal Republic of Germany as *Amicus Curiae* (annexed to Motion), Point I. The Federal Republic also contends that even if the antitrust laws did not confer a cause of action upon it, a 1956 treaty did. See *id.*, Point II. While petitioners believe these arguments to be devoid of merit, we would point out that neither is relevant to the question upon which the Court has granted certiorari.

The Federal Republic addresses itself to the question before this Court only in Points III and IV of the brief annexed to its motion. In neither point does it add to the arguments of the parties.

The Federal Republic did not seek to file a brief as *amicus curiae* before the Court of Appeals.

Wherefore, petitioners oppose the motion of the Federal Republic of Germany to file a brief herein as *amicus curiae*.

Respectfully submitted,

JULIAN O. VON KALINOWSKI
JOE A. WALTERS
JOHN H. MORRISON
*Attorneys for Petitioner
Pfizer Inc.*

SAMUEL W. MURPHY, JR.
PETER DORSEY
KENNETH N. HART
WILLIAM J. T. BROWN
*Attorneys for Petitioner
American Cyanamid Company*

MERRELL E. CLARK, JR.
*Attorney for Petitioner
Bristol-Myers Company*

ALLEN F. MAULSBY
*Attorney for Petitioners
Squibb Corporation and
Olin Corporation*

ROBERTS B. OWEN
*Attorney for Petitioner
The Upjohn Company*

GORDON G. BUSDICKER
*Attorney for Petitioners
Bristol-Myers Company,
The Upjohn Company,
Squibb Corporation, and
Olin Corporation*

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